IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.10 OF 2003

Bhagubai Baburao Jadhav ...Appellant

Vs.

Dagu Kashiram Gangurde & Anr. ...Respondents

Mr.G.S.Godbole for the Appellant
None for the Respondents.

CORAM: A.S.OKA, J.
DATED: APRIL 5,2006.

P.C.:

1. Heard Shri Godbole for the Appellant. The Appellant is the original Plaintiff. The Appellant claimed that there were two agreements for sale executed in his favour by the Defendants on 15th October 1972 and 15th October 1973. A suit for specific performance of the said agreements for sale of immoveable property has been dismissed by the Trial Court and the decree has been confirmed in Appeal.

2. Shri Godbole for the Appellant submitted that the findings recorded by the Courts below that the real transaction was not in nature of sale are perverse.

3. On the basis of the agreement of sale dated 15th October 1973, a suit for specific performance was filed in the year 1990. Even according to the case of the Appellant-Plaintiff,

on 27th November 1987 Defendants refused to execute the sale deed. Even assuming that the findings of fact recorded by the Courts below are erroneous, due to gross latches on the part of the Appellant-Plaintiff, discretionary relief of specific performance cannot be granted.

4. There is no merit in the Appeal and the same is dismissed with no order as to costs.

Judge.